



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2011-0511; FRL-9980-36-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans;
West Virginia; Revised Motor Vehicle Emission Budgets for the
Charleston, Huntington, Parkersburg, Weirton, and Wheeling 8-Hour Ozone Maintenance
Areas; Correction**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects an error in the language of a final rule pertaining to Environmental Protection Agency (EPA)'s approval of the revised motor vehicle emissions budgets for the Charleston, Huntington, Parkersburg, Weirton, and Wheeling 8-hour ozone maintenance areas. The previous rulemaking amended the maintenance plans' 2009 and 2018 motor vehicle emissions budgets (MVEBs) submitted by the State of West Virginia.

DATES: This final correcting amendment is effective on **[Insert date of publication in the Federal Register]**

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814-2046 or by e-mail at becoat.gregory@epa.gov.

SUPPLEMENTARY INFORMATION: On September 15, 2011 (76 FR 56795), EPA published a direct final rulemaking action announcing the approval of revised mobile emissions

budgets for the Charleston, Huntington, Parkersburg, Weirton, and Wheeling 8-hour ozone maintenance areas. In the **Federal Register** document at 76 FR 56795, EPA inadvertently approved incorrect emissions budgets for the Charleston and Wheeling maintenance areas. The correct budgets EPA meant to include were the budgets in West Virginia's 2011 submission, available in the docket for this rulemaking action and at www.regulations.gov.

On December 22, 2011 (76 FR 79539), EPA published a correction notice; however, the incorrect emissions budgets for the Charleston and Wheeling maintenance areas were still inadvertently included again in 40 CFR 52.2532. The intent of this rulemaking notice is to correct those emissions budgets in 40 CFR 52.2532. This action corrects the erroneous language. EPA does not expect adverse comments on this document as we are simply correcting a technical error in the MVEBs table previously approved on December 22, 2011 in 76 FR 79539. The Charleston maintenance area (Kanawha and Putnam Counties) MVEBs for 2018 volatile organic compounds (VOCs) were previously 13.5 tons per day (tpd) and are being corrected to 13.7 tpd. The Wheeling maintenance area (Marshall and Ohio Counties) MVEBs for 2018 VOCs were previously 7.7 tpd and are being corrected to 9.1 tpd.

In the rulemaking published in the **Federal Register** on December 22, 2011 in 76 FR 79539 on page 79541 paragraphs 52.2532(a) and (e) are corrected.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this

rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

Statutory and Executive Order Reviews:

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a significant regulatory action and is therefore not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)). Because the agency has made a good cause finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 et seq), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order

13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act (5 U.S.C. 801 et seq.), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding,

including the reasons therefore, and established an effective date of **[Insert date of publication in the Federal Register]**.

EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to 40 CFR 52.2532 for West Virginia is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 21, 2018.

Cosmo Servidio,
Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart XX--West Virginia

2. In § 52.2532, paragraphs (a) and (e) are revised to read as follows:

§ 52.2532 Motor vehicle emissions budgets.

(a) EPA approves the following revised 2009 and 2018 motor vehicle emissions budgets (MVEBs) for the Charleston, West Virginia 8-hour ozone maintenance area submitted by the Secretary of the Department of Environmental Protection on March 14, 2011:

Applicable geographic area	Year	Tons per day (tpd) VOC	Tons per day (tpd) NO_x
Charleston Area (Kanawha and Putnam Counties)	2009	16.7	38.9
Charleston Area (Kanawha and Putnam Counties)	2018	13.7	17.1

* * * * *

(e) EPA approves the following revised 2009 and 2018 motor vehicle emissions budgets (MVEBs) for the Wheeling, West Virginia 8-hour ozone maintenance area submitted by the Secretary of the Department of Environmental Protection on March 14, 2011:

Applicable geographic area	Year	Tons per day (tpd) VOC	Tons per day (tpd) NO_x
Wheeling Area (Marshall and Ohio Counties)	2009	10.4	9.1
Wheeling Area (Marshall and Ohio Counties)	2018	9.1	3.1

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